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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,718	11/21/2001	Eric Feltin	1487.0310000	9575

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EXAMINER
BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
2143	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	09/989,718	FELTIN ET AL.
	Examiner	Art Unit	
	Alina N. Boutah	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 November 2006</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>37-64</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☒ Claim(s) <u>49</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>11/22/06</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This action is in response to Applicant's amendment filed November 22, 2006. Claims

37-64 are pending in the present application.

This application has been reassigned to another examiner. The examiner has carefully

evaluated the instant claims in view of the prior art. The examiner has conducted a new and

careful search of the pertinent prior art areas.

Specification

The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

The following title is suggested: Computer Architecture for Supporting Peer-to-Peer

Network.

Drawings

Applicant has submitted a replacement drawing of figure 4a. The objection is now

withdrawn.

Claim Rejections - 35 USC § 112

In view of Applicant's amendment, the rejection of claims 38, 57 and 58 under 35 U.S.C.

112, second paragraph, are now withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 37-48 and 50-64 are rejected under 35 U.S.C. 102(e) as being anticipated by

Mackay et al. (US 2003/0018566)

Mackay et al. teach claims:

37. A method of operating a computing device as a first peer (seller/buyer) in a peer-to-peer

network wherein said first peer is adapted to perform a support role (seller/buyer agent) in

relation to a second peer (seller/buyer) in the peer-to-peer network (¶[0006] "a distributed online

auction system that accurately matches buyers and sellers using a peer to peer architecture

enabling not only automated but also "live Internet auctions."), the second peer being a subject of

the support role, comprising:

a) establishing contact between the first peer and the second peer (¶[0007]); and

b) providing said support to the second peer (¶[0008] an online action system that provide

service to seller and buyers, in this case, the service is broadly interpreted as "support" as

claimed).

38. A method of operating a peer-to-peer network (fig.7) with a first peer and a second peer,

wherein the first peer is a super-peer (server), which is adapted to perform a support role and the

second peer being a subject of the support role, comprising:

a) the super-peer receiving notification that the support role is requested (¶ [[0026] The

terminals of Client A and Client B have been enhanced in accordance with the invention,

preferably by executing a suitable installation program on the respective client terminals. If

desired, that program can be downloaded from a server 10. Specifically, each user has a client

application that runs on their terminal in the background and that enables the user to create buyer

and/or seller agents dedicated to the task of buying or selling such items as the user may specify,

or of locating buyers and sellers for such items. The creation and use of these agents will be

described in detail below with reference to FIGS. 2 to 7");

b) the super-peer establishing contact with the second peer (¶ [0026]); and

c) providing support between the first and second peers. (¶ [0026])

39. The method according to claim 38, wherein the peer-to-peer network further comprises a

third peer, wherein the third peer is a second super peer, and any of steps a) to c) are assigned to,

and performed by, the third peer. (¶ [0055] "Each of the network computers on the proxy list

may in turn be connected to other network computers 47A, 47B and 47C to which they can

forward the request, thus forming the peer to peer daisy-chain or tree structure shown in

simplified form in FIG. 8. In this scenario, each network computer 45, 46 is connected to a few

other network computers 46, 47, say three as shown, which are in turn connected to a few other

network computers and so on. When searching for matches the request is forwarded to the

network computers 46A, 46B and 46C to which the user's network computer 45 is connected. If

no match is found on those network computers 46A, 46B and 46C defining the first level of the

structure, then the request is forwarded to the second-level network computers 47A, 47B and

47C connected to the first-level computers 46A, 46B and 46C. This cascading process continues

until a match is found, until a predetermined number of network computers or levels of the

structure have been searched, or until a timeout brings the search to a close after a predetermined

period of time.").

40. The method according to claim 38, wherein the support role is a holding role to hold data for

the benefit of the second peer, where the holding role includes the steps of the super-peer: d)

receiving data; e) recording the received data; f) receiving requests for the received data from

users of the network or a process running on the network; g) retrieving the received data based

on the request; and h) transmitting the received data to the requesting user or process (¶[0055]).

41. The method according to claim 40, further comprising the steps of the super-peer: receiving

further data; wherein step (d) includes the step of the super-peer: (dl) processing the received

data based on the further data. (¶ [0055])

42. The method according to claim 40, further comprising the step of the super-peer: i) receiving

further data with the received data; j) wherein step (d) includes the step of: (dl) the super-peer

processing the received data based on the further data. (¶ [0055])

43. The method according to claim 42, wherein the peer-to-peer network contains a third peer and step (d) includes the step of: (dl) performing operations which result in one or more transmissions to the third peer. (¶ [0055]).

44. The method according to claim 42, wherein the peer-to-peer network contains a third peer and step (f) includes the step of: (fl) performing operations which result in one or more transmissions to the third peer. (¶ [0055]).

45. The method according to claim 40, wherein step (d) includes the step of:

(dl) performing operations which affect the received data, or which affect other data previously recorded or which result in one or more transmissions to the second peer. (¶ [0054]-[0056]).

46. The method according to claim 40, wherein step (f) includes the step of: (fl) performing operations which affect the request, or which affect data previously recorded or which result in one or more transmissions to the second peer. (¶[0054]-[0058]).

47. The method according to claim 40 wherein the support role corresponds to the super- peer being a witness to a transaction. (7 [0034] "The server 10 reports the login result to the client and, if login was successful, sends to the user the offer criteria of any previous buyer and seller agents created by that user (step 2)").

48. The method according to claim 40 wherein the stored data corresponds to links to other

peers. (fig.8)

50. The method according to claim 38, wherein the support role is an assignment role to assign

one or more operations to the second peer, where the assignment role includes the steps of: d) the

super-peer deciding that the second peer is required to perform an operation; e) selecting the

second peer from a list of peers that are available; f) retrieving details of the second peer; and g)

instructing the second peer to perform the operation. (¶ [0054]-[0058])

51. The method according to claim 50, including the further steps of h) assessing the peers in

the list of available peers; and i) recording the results of the assessing step. (¶ [0054]-[0060])

52. The method according to claim 38, wherein the support role is a sharing role to share

performance of an operation with the second peer, the sharing role including the steps of d) the

super-peer receiving notification that a peering relationship is required, a peering relationship

being a method of operating with the second peer so as to share the performance of an operation;

e) determining an identity of a sibling required to implement the peering relationship, the sibling

being the second peer; f) establishing a peering relationship with the sibling; g) maintaining

synchronization between a database on the super-peer and a database on the sibling. (¶ [0054]-

[0061]).

53. The method according to claim 52, wherein the peer-to-peer network comprises a third peer, the sharing role including the step of: h) replacing the sibling with a second sibling as required, the second sibling being the third peer. (¶ [0054]-[0061]).

54. The method according to claim 52, wherein the peer-to-peer network comprises a third peer, the sharing role including the step of: h) creating a third sibling as required, the third sibling being the third peer. (¶ [0054]-[0061]).

55. The method according to claim 52, wherein step (g) includes the steps of:

(gl) handling a request related to the operation if it does not affect a state of the operation; and

(g2) transmitting the request to the sibling, if the super-peer is unable to handle the request. (¶ [0054]-[0061]).

56. The method according to claim 52, wherein step (g) includes the steps of i

(gl) handling a request related to the operation if it does affect a state of the operation; and

(g2) transmitting the request to the sibling. (¶ [0054]-[0061])

57. The method according to claim 52, wherein step (f) includes the steps of:

(gl) confirming that the notification that the support role is requested received by the super-peer is the same as a request received by the sibling before handling a request related to the operation; and (g2) handling the request independently upon confirmation. (¶ [0054]-[0061])

58. The method according to claim 52, wherein the super-peer and the sibling are arranged so that: one of the super-peer and the sibling is operable to receive data; and the other of the super-peer and the sibling is operable to process and record the data. (¶ [0054]-[0061])

59. The method according to claim 52 wherein the support role corresponds to the super-peer performing joint or jury-peering in relation to a transaction. (fig.8; joint peering relationship)

60. The method according to claim 38, wherein the support role is an interfacing role to provide users not able to access the network with an interface to the network, where the interfacing role includes the steps of d) the super-peer receiving data from a user who is unable to access the network, wherein the data is received independently of the network; e) executing the data; f) obtaining results of the execution; and g) transmitting the results to the user, wherein the results are transmitted independently of the network. (¶ [0054]-[0059])

61. The method according to claim 60 wherein the first and second peers perform cooperative peering thereby allowing a jury function to be performed by the first and second peer in relation to a transaction. (¶ [0054]-[0059])

62. The method according to any of claims 47, 59, or 61, wherein the transaction corresponds to a sale, swap, auction, bid, exchange, distribution of information or other transaction which is amenable to supervision, authorization, validation or distribution. (¶ [0003])

63. The method according to claim 38, including the further steps of: d) the super-pee interfacing

with a user not located on the network; e) the super-peer reformatting data for the user to view.

(FIG.6)

64. A method of operating a computing device as a first peer in a peer-to-peer network, wherein

the peer-to-peer network comprises a second and third peer, the first peer being adapted to

dynamically support an interaction between the second and third peers who are otherwise

communicating with each other directly, the method including the steps Of:

a) the first peer establishing contact with the second and third peers which are to be supported;

and b) providing said support. (claim 64 is similarly rejected as in claim 1)

Allowable Subject Matter

As previously indicated, claim 49 would be allowable if rewritten in independent form

including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. In response

to Applicant's that Mackay does not teach or suggest a method where one peer performs a

support role for the other peer as claimed, the PTO respectfully disagrees and submits that

Mackay does teach the claimed invention. As cited above, ¶ [0008], for example, discloses an

agent adapted to generate, when resident on a user terminal, an offer to buy or to sell an item for

matching with an offer from another match between offers to open a peer to peer communication

channel between the host user terminal and another user terminal generating a matching offer.

In this case, the "host user terminal" is interpreted as a first peer, the other terminal is interpreted

as a second peer, and the "offer to buy or sell" is interpreted as support role as claimed. for at

least this reason, the rejections are sustained.

It is the Examiner's position that Applicant has not yet submitted claims drawn to

limitations, which define the operation of Applicant's disclosed invention in manner, which

distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as

possible their invention. It is also the Examiner's right to continue to interpret the claim

language as broadly as possible. It is the Examiner's position that the detailed functionality that

allows for Applicant's invention to overcome the prior art used in the rejection, fails to

differentiate in detail how these features are unique.

Applicant employs broad language, which includes the use of word, and phrases (i.e.

"support role"), which have broad meanings in the art. In addition, Applicant has not argued any

narrower interpretation of the claim language, nor amended the claims significantly enough to

construe a narrower meaning to the limitations. As the claims breadth allows multiple

interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is

forced to interpret the claim limitations as broadly and as reasonably possible, in determining

patentability of the disclosed invention. Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See In re Van

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

Failure for Applicant to significantly narrow definition/scope of the claims and supply

arguments commensurate in scope with the claims implies the Applicant intends broad

interpretation be given to the claims. The Examiner has interpreted the claims with scope

parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly

and distinctly, define the claimed invention.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The

examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).
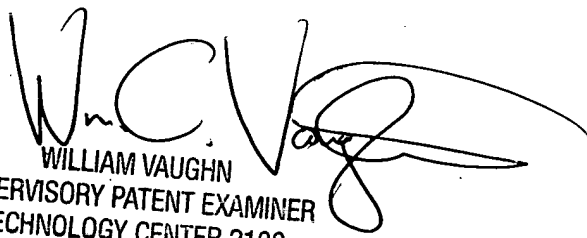
If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ANB

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